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VIA ECF FILING

Honorable Charles R. Breyer
United States District Judge
Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102-3483

***Re: In re: Volkswagen "Clean Diesel" Marketing Sales Practices & Products
Liability Litigation, MDL No. 2672-CRB(JSC)***

Dear Judge Breyer:

I write pursuant to Your Honor's Pretrial Order No. 2 and respectfully submit my application for appointment to the Plaintiffs' Steering Committee.

I am a senior partner with Kantrowitz Goldhamer & Graifman, P.C. ("KGG"). Under my direction, our firm maintains an active nationwide plaintiffs class action practice. More specifically, for over a decade and a half, KGG has litigated numerous automobile defect consumer class actions, including a recent products liability class action in the Northern District of California, entitled *Seifi, et al. v. Mercedes Benz USA, LLC*, 12-cv-05493-THE (JSC). That case received final approval of the class action settlement from Judge Henderson on August 18, 2015. Magistrate Judge Corley was responsible for overseeing discovery issues which arose therein.

Several recent automobile class action cases in which our firm served as lead counsel or co-lead counsel have resulted in decisions officially reported or on Westlaw, which have refined the law in this specialized area. These include:

- *Seifi, et al. v. Mercedes-Benz USA, LLC*, 2014 WL 8370026 (N.D.Ca. Dec. 17, 2014);
- *Seifi, et al. v. Mercedes-Benz USA, LLC*, 2013 WL 2285339 (N.D.Ca. May 23, 2013);
- *Seifi, et al. v. Mercedes-Benz USA, LLC*, 2013 WL 5568499 (N.D.Ca. Oct. 9, 2015);
- *In re Nissan Radiator Transmission Cooler Litigation*, 2013 WL 4080946 (S.D.N.Y. May 30, 2013) (referred to as "*Nissan Radiator Transmission Cooler Litig.*");
- *In re Nissan Radiator Transmission Cooler Litig.*, 2012 WL 1877306 (S.D.N.Y. May 15, 2012);
- *In re Nissan Radiator Transmission Cooler Litig.*, 2011 WL 7095432 (S.D.N.Y. Dec. 16, 2011);
- *Marshall v. Hyundai Motor America*, 51 F.Supp.3d 451 (S.D.N.Y. Sept. 30, 2014);

- *Haag v. Hyundai Motor America*, 969 F.Supp.2d 313 (W.D.N.Y. Sept. 10, 2013);
- *Wiseberg v. Toyota Motor Corp.*, 2012 WL 1108542 (D.N.J. March 30, 2012);
- *Sheris v. Nissan North America, Inc.*, 2008 WL 2354908 (D.N.J. June 3, 2008).

Notably, the *Seifi* case concerned defective vehicles manufactured by a German automobile manufacturer sold in the United States. The fact that KGG has extensive experience dealing with the internal organization and methodology of various foreign automobile manufacturers and their U.S. subsidiaries has been instrumental in allowing us to delve into the areas most relevant for discovery and root out the important substantive documents. This specialized experience has also been essential in both expediting the cases and crafting settlements with just compensation to tens of thousands of consumers nationwide. It has also allowed us to develop close working relationships with eminent experts in the automotive field, upon whose expertise we regularly draw to assist us in these matters.

In addition to serving as lead or co-lead counsel in numerous automobile product defect cases, our firm is co-lead counsel in *In re General Motors Derivative Litig.*, C.A. No. 9627-VCG (Del. Ct. of Chancery), a shareholders derivative action arising out of the ignition switch defect against General Motors Company.

I am also currently on the Plaintiffs' Steering Committee in the massive data breach consumer class action, *In re The Home Depot Consumer Data Security Breach Litigation*, 1:14-md-02583-TWT, pending in the U.S. District Court for the Northern District of Georgia. In that multidistrict litigation, I have been directly involved in drafting of the master complaint and creation of the ESI Discovery Protocol and have worked collaboratively and jointly with counsel for the defendant, counsel for the plaintiff financial institutions and co-counsel representing the consumer plaintiffs.

I am an experienced, AV-rated trial lawyer and have tried numerous complex matters to verdict, including a two-month RICO jury trial involving corrupt New York school buildings inspectorial staff personnel before Judge Arthur Spatt in the U.S. District Court for the Eastern District of New York. I have a 9.9 rating on Avvo.com, primarily based upon my legal acumen and ability to address the problems of our clients effectively, efficiently and favorably. This past year I was a panel presenter on "Trends in Class Action Litigation" at the N.J. State Bar Association Annual Meeting.

(2) Names and Contact Information of Judges.

Recently, counsel has appeared before the Honorable Thelton E. Henderson of the Northern District of California (T: 415-522-2047) in litigating the above cited *Seifi* case involving Mercedes Benz defective vehicles. In connection with that case, Judge Corley may also be familiar with the quality of counsel's work with respect to discovery issues which arose.

Counsel has also tried a case to a favorable plaintiff's jury verdict in 2011 before the Hon. Thomas S. Zilly of the Western District of Washington (T: 206-370-8830) when he was a visiting Judge in the Southern District of New York presiding in *Creighton v. Dominican College, et al.* I believe Judge Zilly will attest to my trial skills, courtroom demeanor, and high level of professionalism. In the aforementioned *Nissan Radiator Transmission Cooler Litig.*, in

which I was co-lead counsel, I appeared before Hon. Vincent L. Briccetti (T: 914-390-4166) in steering that matter towards a favorable settlement and final approval.

In the aforementioned *Marshall, et al. v. Hyundai* class action as well as other cases, I have appeared before Hon. Kenneth M. Karas (T: 914-390-4145) in the Southern District of New York.

I have also worked with the Honorable Edward A. Infante (ret.) in connection with a number of settlements which Judge Infante (T: 415-982-5267) mediated, including the Mercedes Benz (*Seifi*) matter and a previous consumer class action in the Northern District of California entitled *Heverly v. Symantec Corp.*

I have also appeared before Your Honor as recently as last year in the *Hewlett Packard Shareholder Derivative* litigation, as co-counsel for the demand refused shareholders, referred to as the Steinberg Plaintiffs in that matter.

Items (3) – (7) of Pretrial Order No. 2

As an experienced class action plaintiffs' lawyer, I am familiar with the time commitment necessary to succeed in the litigation of a major automobile defect consumer class action such as this matter. My firm and I are willing and are able to commit all necessary time and resources to effectively prosecute this case in seeking to reach a settlement which will be of substantial benefit to those affected consumers and to secure that in a timely and efficient manner. As the Court noted at the initial Case Management Conference, counsel must be mindful of the importance of consumers expeditiously securing useable and legally compliant vehicles upon which they must rely in their daily lives. The dedicated commitment by me and our firm to that guiding principle has been clearly demonstrated by our successful representation of consumers in such very type of class actions.

(8) Other Considerations

I respectfully submit that my extensive and specialized experience in successfully litigating automobile defect class actions on behalf of consumer classes, to which I have dedicated the better part of my career, should be a primary consideration for my appointment to the Plaintiffs' Steering Committee. Having had the privilege of shaping some of the law in this very area demonstrates the ability and commitment which KGG and I have to effectively prosecute this matter and reach a fair, beneficial and expeditious resolution of the matter on behalf of the class of consumer plaintiffs herein.

Respectfully submitted,

KANTROWITZ GOLDBLUM & GRAIFMAN, P.C.


GARY S. GRAIFMAN

Enclosure

Cc: All Counsel via ECF